

ORIGINAL

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EX PARTE OR LATE FILED

November 23, 1999

VIA HAND DELIVERY

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
TW-A325
445 Twelfth Street, SW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

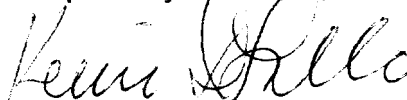
Re: Ex Parte Contacts in WT Docket No. 99-168 Service Rules for the
746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the
Commission's Rules

Dear Secretary Salas:

In accordance with Section 1.1206(b)(1) of the Commission's Rules, 47 C.F.R. § 1.1206(b)(1), notice is hereby given of *ex parte* contacts regarding the above-captioned proceeding. On November 22, 1999, Steve Rosen, Marc Lindsey, and the undersigned, of Levine, Blaszak, Block & Boothby, LLP, on behalf of Microsoft Corporation, met with Stan Wiggins, of the Wireless Telecommunications Bureau, Policy Division; Robert Pepper, of the Office of Plans and Policy ("OPP"); and Dale Hatfield, Bruce Franca, Evan Kwerel, and John R. Williams, of the Office of Engineering and Technology ("OET"). During these meetings, we distributed copies of Microsoft's written *ex parte* submission in this docket, which was filed on November 15, 1999, and is attached to this letter. Today, we distributed copies of that submission by electronic mail to Thomas Sugrue and James Schlichting, of the Wireless Telecommunications Bureau; Stagg Newman, of OPP; and Ari Fitzgerald.

The original and one copy of this letter, along with the attachment, are being filed with the Commission for inclusion in the record of the above-referenced docket.

Respectfully submitted,



Kevin S. DiLallo

cc: Robert Pepper
Dale Hatfield
Evan Kwerel

Stan Wiggins
John R. Williams
Thomas Sugrue

James Schlichting
Ari Fitzgerald

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November 15, 1999

BY HAND

Ms. Magalie Roman Salas
Secretary
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445 12th Street, SW
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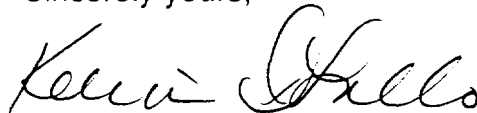
Re: *Ex Parte* Submission in WT Docket No. 99-168, *Service Rules*
for the 746-764 and 776-794 MHz Bands and Revisions to Part 27
of the Commission's Rules

Dear Secretary Salas:

Tendered herewith for filing in the above-referenced docket are two copies of an *ex parte* submission of Microsoft Corporation entitled "Endorsing a National, High Data-Rate Service for Mobile and Fixed Applications."

Please call me at (202) 857-2550 if you have any questions about this submission.

Sincerely yours,



Kevin DiLallo

cc: Hon. William E. Kennard
Hon. Susan Ness
Hon. Harold Furchtgott-Roth
Hon. Gloria Tristani
Hon. Michael Powell
Robert Pepper, Ph.D.
Dale Hatfield

***Ex Parte* Submission of**

Microsoft Corporation

Endorsing a National, High Data-Rate Service for Mobile and Fixed Applications

WT Docket No. 99-168,
*Service Rules for the 746-764 and 776-794 MHz Bands
and Revisions to Part 27 of the Commission's Rules*

November 15, 1999

- The FCC would best serve the public interest by dedicating the 746-764 and 776-794 MHz bands to the development of a national, high data-rate service for mobile and fixed wireless applications. The simultaneous explosion of mobile communications and of the Internet has created enormous consumer interest in improving access to the Internet (and to other digital services) both while around the home or office, and while on the road. To date, the evolution of wireless services to fill this need has been deterred by lack of sufficient spectrum and lack of flexibility within existing allocations to address consumer demand. The 746-764/776-794 MHz spectrum, because of its good propagation characteristics and near nationwide availability, offers the Commission an historic opportunity to catalyze the roll-out of robust, high-speed wireless offerings.
- Services that combine mobility and high data rates will simplify consumers' lives by offering them ongoing access to large quantities of information, regardless of where they might be. To be sure, there is a proliferation of wireless technologies delivering *narrowband* services to mobile devices. Computing devices that obtain and share data wirelessly are becoming increasingly important for personal use, be it for access in cars, on foot, or in the wilderness. And in response to the seemingly unquenchable demand for more bandwidth to the home, the race to roll out broadband wireline services appears to be taking off. Given the demand for these two types of services, there is every reason to believe that demand will be equally strong for services that meld high data-rate mobile capabilities (e.g., upwards of 400 kbps) with fixed applications that could approach broadband speeds (e.g., approaching 2 Mbps in the proper setting). Consumers will benefit enormously from such high-speed mobile/fixed services.
- A high-speed mobile/fixed service could also help allay some of the concerns expressed by both the Commission and Congress that rural and remote portions of the nation might miss the national "upgrade" to high-speed Internet services. Certainly, if there is sufficient local interest in installing the RF-infrastructure and demand for high-speed wireless services, RF-based systems using this spectrum could be erected and deployed quickly for high-speed Internet access.

The Commission Should Allow Maximum Flexibility in Developing Services

- Given our collective inability to predict the different ways in which consumers might want to access high-speed wireless services, the Commission should permit a licensee of the 746-764/776-794 MHz spectrum to provide mobile and fixed services of the operator's choosing, subject to appropriate interference protections, including protections for public safety users located in adjacent bands. See Comments of SBC at 1-2 (supporting rules allowing licensees to use spectrum for "any use in the Fixed, Mobile, and Broadcasting services, subject to international requirements and coordination": "[M]aking this spectrum available for flexible commercial use . . . will contribute to technological and service innovation, and will help all Americans realize the benefits of the national telecommunications infrastructure.").
- Flexible use is consistent with Section 303(y)(2) of the Communications Act, which permits such flexibility if: (1) it is in the public interest; (2) it would not deter investment in communications services or technology development; and (3) it would not result in harmful interference. All these criteria are met, since the proposed high-speed wireless data service would provide an important new service, using the preferred technological approach of the provider. Interference can be managed by appropriate system design for the new services. Moreover, flexible use is consistent with the reallocation policies the FCC applied in recent proceedings, as well as with an FCC staff report. See Gregory L. Rosston and Jeffrey S. Steinberg, FCC Office of Engineering and Technology, "Using Market-Based Spectrum Policy to Promote the Public Interest" (1997).
- As an alternative to complete licensee flexibility, and in order to ensure deployment of state-of-the-art infrastructure, the Commission might consider setting minimum aggregate throughput levels of 200 kbps for mobile services and 2 Mbps for fixed services. Also, the Commission should consider excluding analog services, since they cannot provide high-speed data services and they are relatively spectrally inefficient. See Comments of Motorola at 9-10.

Spectrum for Each Licensee

- This spectrum should be divided into the largest possible blocks. This will allow larger cell sizes, yielding a more rapid roll-out in each geographic area due to the smaller number of cell sites needed for initial deployment. Numerous other commenters support such an allocation scheme, including: SBC (Comments at 2); Association for Maximum Service Television, Inc. (Comments at 7); and U S WEST (Comments at 4).
- Due to the asymmetric nature of personal data services, a flexible allocation of up- and downstream bandwidth would be optimal. This flexibility would allow an operator to "tune" its services to optimize customer satisfaction and system efficiency, and allow for provisioning of data broadcast.

- If the Commission decides to create smaller blocks for competitive bidding reasons, licensees should not be prohibited from aggregating these blocks in order to bring consumers the benefits of economies of scale.

Size of Service Areas

- A nationwide allocation is critical to achieving customer satisfaction and to the success of a high-speed wireless data service. Cellular telephony services have exploded in recent years in large measure because of the elimination of roaming charges and the sewing together of nationwide footprints. Cellular carriers have at long last realized that, in our highly mobile society, consumers demand nationwide access under simple, affordable pricing plans. In contrast, geographic balkanization of service offerings limits consumer interest and slows adoption rates.
- Indeed, geographic balkanization would likely be especially harmful to high-speed wireless data services. The Internet is borderless and American consumers are accustomed to the notion that the online Internet experience is relatively uniform nationwide. The emerging range of portable data devices—from Internet-enabled car radios to palm-sized devices—demand this same seamless roaming capability. As described by U S WEST, “Establishing a nationwide license will enable that licensee to offer to prospective suppliers a market of sufficient scale and scope to provide economic incentives for investment in equipment that is needed for rapid deployment of new technologies and services.” Comments of U S WEST at 3. *See also* FreeSpace *ex parte* submission (October 13, 1999) at 11 (“The wisdom of a nationwide licensing approach is demonstrated by the clear trends in the mobile wireless industry that provide market evidence that nationwide aggregation is most desirable in terms of serving consumers.”).
- If the Commission does not create nationwide service areas, it should, at a minimum, use combinatorial auctions. Such auction rules would allow bidders to bid on a combination of markets that would create a nationwide footprint, but avoid purchasing anything less than nationwide coverage. Further, the service areas should be as large as possible to minimize the complexity of obtaining a nationwide footprint. *See* U S WEST *ex parte* submission (October 29, 1999) at 4-5.

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the ECFS system.

- o Microfilm, microform, certain photographs or videotape.

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